

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
April 26, 2017

The Highland Board of Zoning Appeals met on April 26, 2017 in the meeting room of the Municipal Building, 3333 Ridge Road, Highland IN. Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Martini.

ROLL CALL: Present Mr. Mileusnich, Mr. Martini, and Mrs. Murovic. Also present Attorney Jared Tauber, Building Commissioner Mr. Ken Mika and Town Council Liaison Steve Wagner. Absent Mr. Helms and Mr. Grzymiski.

MINUTES: The minutes of the March 22, 2017 were approved as posted.

ANNOUNCEMENTS: The next meeting of the Board of Zoning Appeals to be May 24, 2017 at 6:30 pm.

COMMUNICATION: None

Attorney Tauber announced to the petitioners that since there were only (3) three BZA member's present to vote out of (5) five, that for anything to pass or be denied tonight there would have to be a 3-0 vote, as it has to be a majority of the Board, so the petitioners would have the right if they feel they would like to have more of the Board present, they could always continue their petition request to the next month.

Old Business: Approval of Findings of Fact for Latoya & Joseph McDaniel, 7538 Woodlawn Ave., Hammond, IN requesting a Use Variance for a Day Care/Educational Facility at the location of 9219 Indianapolis Blvd., Suite A. {HMC 18.45.030} The following listed uses and no others are permitted uses in a B-3 district: Permitted uses do not include day care. Mr. Martini motioned to approve the Findings of Fact. Mr. Mileusnich seconded and unanimously passed with a roll call vote of 3-0.

Approval of Findings for Ron & Jan Van Kampen, 7425 Falling Leaf Circle, Schererville, IN, requesting a variance for minimum lot size requirement for overall lot size, width and side yard setback from 7.5' to 5', including 5' drainage easement on west side of property, for potential residential property to be built on vacant lot for the location of 3425 Laverne Dr. {HMC 18.15.060 (C)1(a)} Every one-family detached dwelling hereafter erected and every transitional use permitted in this zoning district hereafter established shall be on a zoning lot having a minimum area of 8,400 square feet and a minimum width of 70 feet at the building line, and a minimum lot depth of 120 feet. A lot of record existing on the effective date of the ordinance codified in this title which is less than 8,400 square feet in area or less than 70 feet in width, or 120 feet in depth, may only be improved by a variance from the board of zoning appeals. {HMC 18.15.060 (H)1} For One-Family Detached Dwellings. On a lot improved with a one-family detached dwelling, a side yard shall be provided along each side lot line. No side yard shall be less than eight feet in width in an R-1A district, and seven and one-half feet in width in an R-1 district. Mr. Mileusnich motioned to approve the Findings of Fact. Mr. Martini seconded and unanimously passed with a roll call vote of 3-0.

Second Continued Public Hearing for Jacqueline & Cosme Herrera, 8112 Wicker Park Dr., requesting a variance to exceed accessory structure allowance and location of shed on side yard property line. {HMC 18.05.060 (F)5} In Zoning District R-1A, R-1, R-2, or R-3. The

summation of the gross floor area of all accessory structures shall not exceed the gross floor area of the principal structure, or 720 square feet, whichever is less.

The Herrera's distributed a plat survey of their property.

Mrs. Herrera states they are asking for a variance regarding their shed as the shed exceeds accessory structure square footage allowance and that they also had to get a new plat survey of their property to prove that their shed was in fact on their property. She states that the new plat survey shows that the shed is on their property.

Attorney Tauber asked Mrs. Herrera if they had the calculation for the sq. ft. of their garage and their shed. Mrs. Herrera said no.

The Board members calculated that the garage was 28' x 28' and that would put the square footage of the garage at 784.

Mr. Mika spoke and said that from previous information the shed and the garage were over the allowed total square footage.

Mr. Tauber was hoping for the calculation for each structure so he could put them in his Findings of Fact.

Mr. Martini calculated that the shed was around 10' x 20' it would have a total square footage of 220. It was further determined that the shed has a total square footage of 226.

Mr. Mileusnich asked if the garage was attached to the house and Mrs. Herrera responded no, it is a detached garage and there is no other garage. Mr. Mileusnich asked what was above the garage and Mrs. Herrera responded it is an open room and is used as storage and an open rec room. She said she and her husband are involved in the boy/cub scouts and sometimes they hold their meetings there. She also stated that one of the reasons they put up the shed was to remove the items from the garage and store them in the shed.

Mrs. Murovic opened up the public hearing. Hearing no remonstrances the hearing was closed.

Mr. Mika commented that this variance was not only for sq. ft. but for the structure being situated by the side and rear property line which is in violation of the current ordinance. Mr. Tauber commented that the variance is really for (2) variances. Mr. Mika commented that the shed current location is situated right on the rear and side property line and that is not allowed.

Mrs. Murovic asked when the shed was built and Mr. Herrera replied about a year ago, around July of 2016. Mrs. Murovic asked if a building permit was pulled and Mr. Herrera replied no.

Mrs. Murovic reiterated that the shed was located right on the lot line with no space between the side and rear property line.

Mr. Martini asked what foundation the shed was on and Mr. Herrera replied asphalt.

Mrs. Murovic asked the height of the shed and Mr. Herrera replied about 6.5 ft. tall. She then asked if the Herrera's knew the height of their garage. They replied 20 feet.

Mr. Mileusnich asked if the garage was there when they purchased the house and they replied yes.

Mr. Martini asked Mr. Mika if a party wanted to build a 226 sq. ft. shed would they need a building permit and Mr. Mika replied yes.

Mr. Martini asked what the shed was made of and Mr. Herrera replied 2 x 4's.

Mrs. Murovic asked what kind of survey did they have done and Mrs. Herrera said it was a staked survey.

Mrs. Murovic asked Mr. Mika what the side yard setbacks are and he replied 5 ft. off the side and rear property line. He said if there is an easement the shed could not go on the easement.

Mr. Martini verified there were (2) variance requests with Attorney Tauber.

Mr. Martini motioned to deny the location of the shed on the rear and side property line. Mr. Mileusnich seconded and it unanimously passed with a roll call vote of 3-0.

Mr. Martini motioned to allow the excessive 226 square footage on the shed for an accessory structure contingent that the shed be moved within a 30 day period. Mr. Mileusnich seconded and it unanimously passed with a roll call vote of 3-0.

Public Hearing request for F&G Investments, L.P., 2635 169th St., Hammond, IN, represented by Attorney Glenn Patterson, 300 E. 90th Dr., Merrillville, IN requesting a Use Variance for a cemetery at the address of 8939 Kleinman Rd. {HMC.18.35.040}The following listed uses and no others are permitted uses in a B-1 district: Permitted uses do not include a cemetery.

Mr. Tauber stated that the Proofs of Publication were in compliance with IC 5-3-1.

Mr. Patterson introduced himself and distributed an aerial view of the location they are seeking the Use Variance for, that Use being a cemetery.

Mrs. Murovic asked Attorney Tauber what a guideline would be regarding a cemetery purpose, would that include mausoleums and Attorney Tauber replied yes, he would think so.

Mr. Patterson asked Mr. Van Til who was also present if he was aware of what kind of use regarding containment the cemetery would be asking for and Mr. Van Til replied he did not know.

Mrs. Murovic opened up the public hearing. Hearing no remonstrances the hearing was closed.

Mr. Mileusnich motioned to make a favorable recommendation for the Use Variance for the cemetery. Mr. Martini seconded and it unanimously passed with a roll call vote 3-0.

Public Hearing request for Vyto's Pharmacy, 8845 Kennedy Ave., represented by Vyto Damasius, 6949 Kennedy Ave., Hammond, IN requesting a variance to exceed sign allowance {HMC 18.85.080 (G)(2)(a) Each occupancy shall be permitted a maximum of one sign.

Mr. Damasius requested a continuance due to the fact there were only (3) Board members available to vote and that his sign contractor was not able to attend the meeting.

Mr. Martini motioned to grant the continuance to the May 24, 2017 meeting. Mr. Mileusnich seconded and it unanimously passed with a roll call vote of 3-0.

Public Hearing for Stephen Adams, 9149 Woodward Ave. Highland, IN requesting a variance to move fence beyond build line. Property is on a corner. {HMC 18.05.060}(G)(5)(a) Permitted Obstruction in Required Yards. The following shall not be considered to be obstructions when located in the required yards specified: (a) In All Yards. Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches; open terraces or decks not over four feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than six feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls; provided, that in residential districts no fence or wall shall be located in the required front yard and no landscaped screen or hedge shall exceed three feet six inches in height if located in the front yard, and no fence, landscaped screen, hedge or wall shall exceed six feet in height if located in a side or rear yard. On a corner or reverse corner lot, the side yard setback shall be the same as the front yard setback on adjoining lots; fences shall not be installed beyond this point. No fence, screen, hedge or wall shall interfere with line of sight requirements for local streets or intersections. No fence, screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence or wall shall be approved by the building commissioner prior to the issuance of a building permit.

Mr. Adams introduced himself and distributed packets containing information on his property and neighboring properties and their fences.

Mr. Tauber stated that the Proofs of Publication were in compliance with IC 5-3-1.

Mr. Adams referenced the packet and information regarding his property and location of where he felt would be the best option for his fence. Currently there is a fence located on his property and to replace the fence in its current location and install an inward gate, he would not be able to close the gate due to the proximity of the vehicles parked in his driveway and also an inward opening gate would obstruct the walkway. He feels a sliding gate would not work either as there is concrete where the fence is currently located and the gate would scrape on the concrete. If he were allowed to move the fence to sidewalk it would alleviate all those issues.

Mrs. Murovic asked if Mr. Adams was replacing his fence with another privacy fence and he replied yes.

Mrs. Murovic opened up the public hearing. Hearing no remonstrances the hearing was closed.

Mr. Martini asked the distance from where the fence is now and where he would like to install the new fence and Mr. Adams responded 10.2 ft. Mr. Martini asked what the hardship is for Mr. Adams. Mr. Adams replied his hardship is he cannot install his gate and that would impede his security.

Mr. Martini asked Mr. Mika what the code was regarding fences. Mr. Mika replied you cannot have a fence beyond the build line, and on a corner lot there are two build lines, so essentially a fence cannot go before the front build line.

Mr. Mileusnich asked about Mr. Adams neighbor and where their fence is located and Mr. Adams replied that their fence is not on the build line, it is extended out.

Mr. Martini inquired about a "Plan B", referencing other options Mr. Adams would be willing to accept. Mr. Adams responded it would be to install the new fence 1.5 feet from the sidewalk instead of directly on the sidewalk line.

Mr. Mileusnich noted Mr. Adams was asking to extend his fence line to 10.2 feet from where the current fence is located and asked what adjustment he would be willing to make for the new fence, instead of 10.2 to what distance would he be willing to install the fence. Mr. Adams replied 8 feet.

Mr. Mileusnich motioned to allow the fence to be installed 7 ft. from the build line on the Robin Drive side of the property with the condition that the gate either swing in or be a sliding gate. Mr. Martini seconded and it unanimously passed with a roll call vote of 3-0.

Preliminary Hearing for Brian Revere, 8937 Grace St., requesting a variance to exceed accessory structure allowance to build an additional 588 sq. ft. garage. {HMC 18.05.060 (F)(5)} In Zoning District R-1A, R-1, R-2, or R-3. The summation of the gross floor area of all accessory structures shall not exceed the gross floor area of the principal structure, or 720 square feet, whichever is less.

Mr. Revere was not present at the meeting. The Board members agreed to grant a continuance to the next BZA meeting of May 24, 2017. Mr. Martini motioned to grant the continuance. Mr. Mileusnich seconded and it unanimously passed with a roll call vote of 3-0.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: Motion: Mr. Martini Second: Mr. Mileusnich Time: 7:11 p.m.

